IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4446 of 2001

to

FIRST APPEALNo 4453 of 2001

with

CIVIL APPLICATION No 10794 of 2001

to

CIVIL APPLICATION No 10801 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO. LTD.

Versus

DALSANGBHAI NARSANGBHAI DECD. THRO' HIS HEIRS

Appearance:

1. First Appeal No. 4446 of 2001

MR PV NANAVATI for Petitioner No. 1

MR VIBHUTI NANAVATI for Petitioner No. 1

..... for Respondents No. 1,2-5-1/3

MR PK JANI for Respondents No. 1/1 to 1/3

SERVED BY RPAD - (N) for Respondents No. 1/1-1/3

2. Civil Application No. 10794 of 2001
MR PV NANAVATI for Petitioner No. 1
..... for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE H.H.MEHTA

Date of decision: 11/12/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.H.KADRI)

1. Heard the learned counsel for the appellant and the learned counsel for the respondents - claimants. The Appeals are admitted. Learned advocates Mr.G.M. Amin, Mr.P.K. Jani and Mr.Nirjar Desai waives service of notice on admission on behalf of the original claimants respondents.

2. On a joint request of learned counsel, these appeals are taken up for final hearing today.

3. These are appeals under Section 173 of the Motor Vehicles Act, 1988 at the instance of the Insurance Company, challenging the judgment and award passed by the Motor Accident Claims Tribunal (Aux.), Surendrangar, under Section 168 of the said Act.

4. Learned counsel for the appellant has pressed these appeals only on the ground of interest awarded by the Tribunal on the amount of compensation determined as payable.

5. The Tribunal in fact has awarded interest at the rate of 12% per annum on the compensation determined by it, from the date of the claim petition till realization. It is in the context of this rate of interest that we are required to examine the present appeals.

6. The question of interest is no doubt within the discretionary jurisdiction of the Tribunal, but in the light of various decisions of this Court, the rate of interest has to be tempered with the economic reality prevailing in the country and the rates of interest prevailing generally in the market from time to time.

7. After considering various relevant and pertinent factors, this Court has in a number of decisions adopted a slab system of awarding interest, particularly where the interest awarded by the Tribunal has not been so exorbitant so as to shock the conscience of the Court.

Thus, on the facts and circumstances of the case, and in consonance with the earlier decisions of this Court as also this bench, we hold and direct that the original claimant shall be entitled to interest on the amount of compensation awarded by the Tribunal under the impugned award at the rate of 12% per annum from the date of the claim petition upto 31st December, 1999, and at the rate of 9% thereafter, till realization.

8. The impugned judgments and awards are modified only to the aforesaid extent and rest of the awards stand confirmed.

9. These appeals are therefore, partly allowed to the aforesaid extent with no order as to costs. Awards to be drawn accordingly. Direct Service is permitted.

Since the main appeals have been dismissed, the Civil Applications for stay do not survive and are disposed of accordingly.

(M.H. Kadri, J.)

(H.H. Mehta, J.)

/phalguni/